

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Thomas R. Mulhearn,)
)
Plaintiff,)
)
v.) No. 10 C 7934
)
Blitt & Gaines, P.C., an Illinois)
professional corporation,)
)
Defendant.) Jury Demanded

COMPLAINT

Plaintiff, Thomas R. Mulhearn, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendant's debt collection actions violated the FDCPA, and to recover damages for Defendant's violation of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because: a) the acts and transactions occurred here; and, b) Defendant resides and transacts business here.

PARTIES

3. Plaintiff, Thomas R. Mulhearn ("Mulhearn"), is a citizen of the State of Colorado, from whom Defendant attempted to collect a delinquent consumer debt he allegedly owed for a Capital One credit card.

4. Defendant, Blitt & Gaines, P.C. ("Blitt"), is an Illinois professional corporation and law firm that acts as a debt collector, as defined by § 1692a of the

FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer debts. Defendant Blitt operates a nationwide debt collection business and attempts to collect debts from consumers in virtually every state, including consumers in the State of Illinois. In fact, Defendant Blitt was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff.

5. Defendant Blitt is licensed to conduct business in Illinois and maintains a registered agent here, see, record from the Illinois Secretary of State, attached as Exhibit A. In fact, Blitt conducts business in Illinois.

FACTUAL ALLEGATIONS

6. Mr. Mulhearn is a senior citizen, with limited assets and income, who fell behind on paying his bills, including a debt he allegedly owed for Capital One credit card. At some point in time after that debt became delinquent, Capital One hired Defendant Blitt to collect the debt. Inexplicably, Defendant Blitt filed a lawsuit against Mr. Mulhearn on October 7, 2010, in a matter styled Capital One Bank v. Thomas R. Mulhearn, No. 2010-M1-193627, in the Circuit Court of Cook County, Illinois. A copy the collection lawsuit is attached as Exhibit B.

7. Although Mr. Mulhearn is represented as to his debts by the legal aid attorneys at LASPD in Chicago, Illinois, he is a resident of Colorado and has never resided in Illinois, including Cook County, where the lawsuit was filed.

8. Oddly, Defendant Blitt attempted to have the lawsuit served on Mr. Mulhearn at the offices of his legal aid attorneys at LASPD, at 205 West Monroe, Chicago, Illinois, which, based upon their extensive past dealings with LASPD, Defendant knew, or should have known, was the business address for LASPD, not the

residence of Mr. Mulhearn. A copy of the Cook County Sheriff's Civil Data Information Center civil process result sheet is attached as Exhibit C.

9. Defendant's collection actions complained of herein occurred within one year of the date of this Complaint.

10. Defendant's collection communications are to be interpreted under the "unsophisticated consumer" standard. See, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

**Violation Of § 1692i Of The FDCPA --
Filing A Lawsuit In The Wrong Venue**

11. Section 1692i of the FDCPA requires that debt collectors file suit only in the judicial district where the consumer "signed the contract sued upon" or "where the consumer resides at the commencement of the action". 15 U.S. C. § 1692i(a)(2)

12. Mr. Mulhearn, a resident of Colorado, has never lived in Illinois. By filing suit against him in Cook County, Illinois, Defendant violated § 1692i of the FDCPA.

13. Defendant's violation of § 1692i of the FDCPA renders it liable for actual and statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, Thomas R. Mulhearn, prays that this Court:

1. Find that Defendant's debt collection actions violated the FDCPA;
2. Enter judgment in favor of Plaintiff Mulhearn, and against Defendant, for actual and statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Thomas R. Mulhearn, demands trial by jury.

Thomas R. Mulhearn,

By: /s/ David J. Philipps

One of Plaintiff's Attorneys

Dated: December 14, 2010

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